

UNITED STATES DISTRICT COURT
for the
Northern District of Ohio

United States of America,	:	
	:	Case No. 3:18CR00026
Plaintiff(s),	:	
	:	James G. Carr
vs.	:	United States District Court Senior Judge
Karl J. Rogers,	:	
	:	
Defendant.	:	

**MOTION IN OPPOSITION TO GOVERNMENT’S MOTION
TO RECONSIDER DECISION NOT TO REMAND
DEFENDANT INTO CUSTODY FOLLOWING GUILTY VERDICT**

NOW COMES the defendant, Karl J. Rogers, by and through Counsel, Reese M. Wineman, in response to the Government’s Motion to Reconsider Decision Not to Remand Defendant into Custody Following Guilty Verdict, filed on March 12, 2019, and asserts that, based upon the state of the record, which the Court, clearly, recognized, and, specifically, the testimony of the Defendant, himself, admitting to the status of being addicted to child pornography, as well as the confession given, which included a recognition of that long-standing addiction, the Trial Court had more than sufficient evidence to recognize the exceptional circumstances in the case before the Court. In *United States v. DiSomma*, 769 F. Supp. 575, 576 (S.D.N.Y. 1991) (“DiSomma I”), aff’d, 951 F.2d 494 (2d Cir. 1991) (“DiSomma II”), both, the

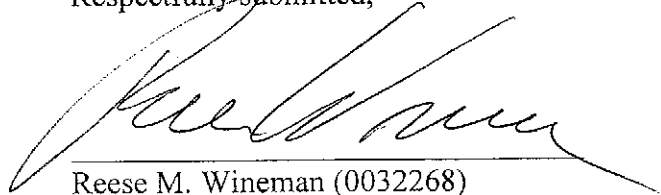
District Court and the Circuit Court of Appeals, recognized the entitlement of the Defendant, in that case, who had been convicted of robbery, mail fraud, and RICO charges, to be released on bail, pending sentencing. Both Courts in that matter determined “exceptional reasons” why Defendant’s detention would not be appropriate.

Here, in the current matter, as demonstrated in the Court’s ruling, the exceptional circumstances of the Defendant’s recognition and acceptance of his condition, along with the finding that the family support would be needed for ongoing treatment, and the recognition that family support existed, based upon the fact that, both, the father and brother of the Defendant, appeared and testified, were, certainly, reasons demonstrating exceptional circumstances; and, a keen understanding of the root causes of addiction and the recognition that avoidance, even for a period of ten (10) plus years, are symptoms of that addiction, is significant. In addition, the Defendant had been on Pre-Trial Release for several months prior to his Trial; and, there was no indication given that he was, in any way, uncooperative or did not comply with the requirements of the Pre-Trial Detention Officer in charge.

The State has failed to, in any way, indicate that the Defendant, through past conduct, is, in fact, a threat to the community. The Defendant has led a law abiding life for the vast majority of his adult years, was honorably discharged from the U.S. Marine Corps, and, in no way, demonstrated any proclivity towards violence, even based upon the testimony adduced at Trial in this matter. In addition, the State has failed, in any way, to demonstrate that the Defendant is a risk to flee. The Defendant’s entire significant contacts are with the State of Ohio, where his family resides; and, there has been no demonstration of any contacts with foreign nations, either, financially or emotionally. Any allegations that the Defendant would attempt to view child pornography in a public place, as alleged in the subject Motion of the Government, is completely without substance, based upon all of the evidence and testimony produced at Trial.

Based upon all of the foregoing, the Defendant respectfully requests that the Government's Motion to Reconsider this Court's Decision Not to Remand Defendant into Custody Following Guilty Verdict, be denied, and that the Defendant be allowed to continue on release pending sentencing.

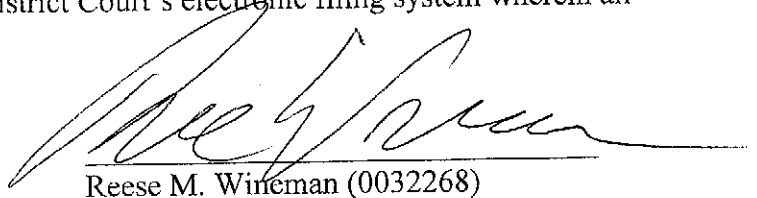
Respectfully submitted,



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Attorney for the Defendant

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of March, 2019, a copy of the foregoing instrument was filed electronically with the District Court's electronic filing system wherein all parties may access it.



Reese M. Wineman (0032268)